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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/709,493	05/10/2004	Omid Saeed Tehrani		3492
45186	7590	01/27/2005		
OMID SAEED TEHRANI 44870 JOY ROAD PLYMOUTH, MI 48170			EXAMINER HOLZEN, STEPHEN A	
			ART UNIT 3644	PAPER NUMBER

DATE MAILED: 01/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/709,493

Applicant(s)

SAEED TEHRANI, OMID

Examiner

Stephen A. Holzen

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3644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1 and 17 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The applicant has not described his "rotating body" in the specification to have a circular cross section perpendicular to the axis of rotation". In fact that rotating body (as disclosed in the spec) has a circular cross section parallel to their axis of rotation.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-27 contain limitations that recite limitation that have insufficient antecedent basis. Due to the fact that the claims are excessively repetitive, the

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examiner has only listed the limitations lacking antecedent basis once. The applicant is required to review all the claims and correct all similar references.

- a. Re – Claim 2: the phrases “the angel” and “the front-back axis” lack antecedent basis
- b. Re – Claim 5: the phrases “the rotation-axis” and “the thrust force point of effect” lack antecedent basis.
- c. Re – Claim 9: the phrase “the center of gravity” lack antecedent basis.
- d. Re – Claims 17-27: the phrase “The method” lacks antecedent basis.

5. Claims 17-27 provide for the use of flying machine, but, since the claim does not set forth any steps involved in the method/process, it is unclear what method/process applicant is intending to encompass. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced.

Claims 17-27 is rejected under 35 U.S.C. 101 because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under 35 U.S.C. 101. See for example *Ex parte Dunki*, 153 USPQ 678 (Bd.App. 1967) and *Clinical Products, Ltd. v. Brenner*, 255 F. Supp. 131, 149 USPQ 475 (D.D.C. 1966).

6. Claims 1-27 are rejected under 35 U.S.C 112 2<sup>nd</sup> paragraph because the claims are generally narrative and indefinite, failing to conform with current U.S. practice.

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7. The term "higher" in the claims is a relative term, which renders the claim indefinite. The term "higher" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

8. Claim 9 is rejected under 35 U.S.C 112 2<sup>nd</sup> paragraph because the phrase "with any additional load" is indefinite where it does not clearly define the scope of the claim.

9. Claims 1-27 are rejected under 35 U.S.C 112 2<sup>nd</sup> paragraph because they do not comply with 37 CFR 1.75(b). "More than one claim may be presented provided they differ substantially from each other and are not unduly multiplied". See MPEP 2173.05(n). The applicant has presented an unreasonable number of claims which, in view of the nature and scope of the applicant's invention, are repetitions and multiplied, the net result of which is to confuse rather than to clarify. The applicant should amend the claims to clearly set forth the desired scope or select a specified number of claims for the purpose of examination.

### ***Claim Objections***

10. Claims 17-27 objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim must be recited in the alternative only. See MPEP § 608.01(n). Accordingly, the claims 18-27 have not been further treated on the merits.

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11. The phrase "composed" should be changed to "comprised". The phrase "composed" does not comply with accepted standards for the transitional phrase between the preamble and the body of the claim. Other acceptable transitional phrases are: "characterized", "consisting" and "consisting essentially of". The examiner cannot determine if the word "composed" is used in an "open" or "closed" form.

***Claim Rejections - 35 USC § 102***

12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

13. Claims 1-17 are rejected under 35 U.S.C. 102(b) as being anticipated by E. F. Zaparka (1,927,538). Zaparka discloses a flying machine comprising a rotating body with a circular cross section having an engine, a thrust force producing device and a device to transfer power from the engine to the rotating bodies and connecting parts. (see Figures 8, 11 and 16), where the rotating bodies can move back and forth and change the angle between their rotation axis and the front-back axis (see Figure 16), wherein the rotating bodies can be inflated or deflated (see #50 & #51) wherein the rotation axis of the rotating bodies is placed higher than the thrust force point of effect (see Figure 8), wherein the rotation axis of the rotating bodies is placed higher than the center of gravity of the machine (with any additional load). (see Figures 8, 11 and 16).

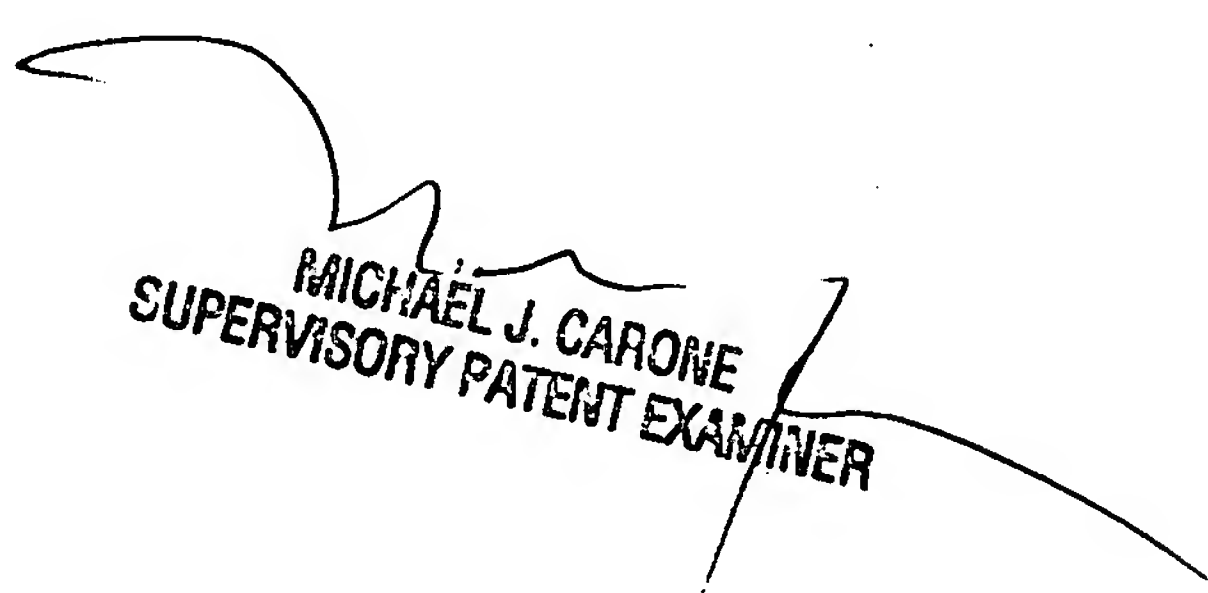
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen A. Holzen whose telephone number is 703-308-2484. The examiner can normally be reached on M-F 7:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu can be reached on 703 305-7421. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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MICHAEL J. CARONE  
SUPERVISORY PATENT EXAMINER